United Nations A/AC.109/2001/10

General Assembly

Distr.: General
14 May 2001
English
Original: English/Spanish

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Gibraltar

Working paper prepared by the Secretariat

Contents

		Paragraphs	Page
I.	General	1–2	3
II.	Political developments	3–11	3
	A. General	3–6	3
	B. General elections	7	3
	C. Recent developments	8–11	4
III.	Economic conditions	12–28	5
	A. General	12–13	5
	B. Public finance	14–16	5
	C. Trade	17–18	5
	D. Banking and finance	19–21	5
	E. Transportation, communications and utilities	22–27	6
	F. Tourism	28	7
IV.	Social conditions	29–48	7
	A. Labour	29–31	7
	B. Human rights and the status of women	32–36	8
	C. Environment	37–38	8
	D. Housing	39	9

01-37054 (E) 040601 050601

E. Social security and welfare 40 9

F. Public health 41–43 9

G. Public education 44–46 9

H. Crime and crime prevention 47–48 10

V. Consideration by the United Nations 49–53 10

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples 49–50 10

B. Special Political and Decolonization Committee (Fourth Committee) 51–52 10

C. Action by the General Assembly 53 11

VI. Future status of the Territory 54–70 11

A. Position of the administering Power 54–55 11

B. Position of the territorial Government 56–61 11

C. Position of the Government of Spain 62–64 13

D. Anglo-Spanish negotiations 65 14

E. Anglo-Gibraltarian discussions 66–68 14

I. General[1]

1. Gibraltar is a narrow peninsula extending southward from the south-west coast of Spain, to which it is connected by an isthmus about 1.6 kilometres long. The Spanish port of Algeciras lies 8 kilometres across the bay to the west; the continent of Africa is situated 32 kilometres across the Strait of Gibraltar to the south. According to the United Kingdom of Great Britain and Northern Ireland, the area of Gibraltar is 5.86 square kilometres, and according to Spain it is 4.8 square kilometres.

2. The latest census of Gibraltar, taken on 14 October 1991, assessed the Territory's civilian population at 26,703, of which 20,022 were Gibraltarians, 3,811 other British subjects, 1,798 Moroccans and 1,072 of other nationalities. The Gibraltar Statistics Office estimated the population in 1997 at 27,192.[2]

II. Political developments

A. General

3. The 1969 Constitution guarantees basic civil and political rights and attributes. It assigns responsibility for local matters to a local Government. The United Kingdom, however, retains power over matters of defence, external affairs and internal security. The Governor, appointed by the sovereign of the United Kingdom, retains the power to rescind laws passed by the legislature. Furthermore, the Constitution reserves for the sovereign full power to make laws from time to time for the peace, order and good government of Gibraltar (including, without prejudice to the generality of the foregoing, laws amending or revoking that Constitution). A new Governor, Mr. David Durie, replaced outgoing Governor Sir Richard Luce in April 2000. A detailed discussion about the 1969 Constitution, including the positions of Spain and the United Kingdom, is contained in the report of the Special Committee to the General Assembly at its twenty-fourth session.[3]

4. Legislative authority is vested in a single House of Assembly consisting of 15 elected members. Executive authority is vested in a Council, which is composed of the Governor, four ex officio members, the Chief Minister and four elected members, and which assists the Governor in an advisory capacity. The Council of Ministers is made up of the Chief Minister, members of the House of Assembly designated by the Chief Minister, and some elected members. The Council of Ministers, which acts as a cabinet, holds responsibility for specific domestic matters, with the Governor retaining the prerogative to intervene in support of his responsibilities for defence and external affairs.

5. The legal system of Gibraltar is based on the common law and statute law of England. Gibraltar retains its own court system, which includes lower courts (Court of First Instance, Coroner's Court, Magistrate's Court), a court of appeals and a supreme court. The supreme court has unlimited jurisdiction to hear and determine any civil or criminal proceedings. At present, it consists of the Chief Justice and an additional judge appointed by the Governor.

6. In January 1999, the Parliamentary Under-Secretary of State, Foreign and Commonwealth Office, reaffirmed that the relationship between the United Kingdom and Gibraltar continues to be governed by the 1969 Constitution. The United Kingdom's White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories",[4] presented to Parliament in March 1999, spoke of each Territory's need for a constitutional framework to suit its own circumstances and stated that suggestions from Overseas Territory Governments for specific proposals for constitutional change would be considered carefully. In June 1999, Gibraltar's House of Assembly adopted a resolution setting up a select committee on constitutional reform. The Chief Minister has stated that the Committee is expected to make its report to the full House during 2001.[5] (See paras. 68-70 for further reference to this issue.)

B. General elections

7. The last general elections in Gibraltar were held on 10 February 2000. Approximately 80 per cent of the 18,621 registered voters participated. The incumbent Gibraltar Social Democratic Party (GSD) obtained 58.35 per cent of the vote, followed by the Gibraltar Socialist Labour Party/Liberal Party alliance (GSLP/Liberal) with 40.57 per cent, and independent candidates, with 1.08 per cent. Consequently, GSD won eight seats in the Territorial House of Assembly and the GSLP/Liberal alliance seven seats. Peter Caruana,

leader of the Gibraltar Social Democratic Party, obtained 8,747 votes and was appointed Chief Minister of Gibraltar. The GSLP/Liberal alliance, led by Joseph Bossano, forms the Opposition.[6]

C. Recent developments

8. The March 1999 United Kingdom White Paper stated that the relationship between the metropolitan government and its territories must be seen "within the overall framework of modernization and reform, and within Britain's new international role". One of the Government's recommendations concerned the creation of an Overseas Territories Department within the Foreign and Commonwealth Office to ensure better links between the United Kingdom and its Territories. However, the paper indicated that, because Gibraltar was within the European Union as part of the United Kingdom membership under the Treaty of Rome — the only Overseas Territory with that status — it would continue to be handled principally by the Foreign and Commonwealth Office's European Departments, reporting to the Minister responsible for Europe.

9. The Government of the United Kingdom launched a Strategic Defence Review in May 1997 to examine most areas of the United Kingdom's defence. The resultant White Paper placed renewed emphasis on the rapid deployment of British forces in response to crisis and pointed out that Gibraltar's facilities provided an independent forward operating base for British forces in the Mediterranean and served as a transit base for vessels en route to the Middle East and elsewhere. According to a report published in June 1999 by the Foreign Affairs Committee of the United Kingdom House of Commons, over the last 15 years, the level of military personnel in Gibraltar has declined from 10,000 to under 1,000, and civilian Ministry of Defence employees, from 15,000 to 1,200. Defence-related expenditure has declined from 70 per cent of gross domestic product (GDP) to 7 per cent.[7]

10. Within the framework of defence matters, during the period under review there has been much media coverage of the arrival in Gibraltar in May 2000 of the HMS Tireless, a defective Royal Navy nuclear submarine, which required lengthy repairs in the Territory. According to the Government of Gibraltar, "the submarine's presence in Gibraltar has been a cause for concern expressed by environmentalists both in Gibraltar and across the border in Spain. Throughout, the Government of Gibraltar has impressed upon the Ministry of Defence that the exercise should not pose any threat to public safety, public health or to the environment. For the purpose of monitoring this, the Government of Gibraltar appointed a panel of independent nuclear experts who have closely followed the Ministry of Defence's repair plan and advised the Government on a step by step basis". For its part, the Government of Spain has stated through its Minister for Foreign Affairs that the repairing of the submarine in Gibraltar "is not the scenario that we would have wished (...), the repairing of the HMS Tireless (...) has underscored the fact that Spain cannot remain indifferent to the existence of a military base whose functioning affects the legitimate interests and responsibilities of the Spanish Government".[8] The submarine left Gibraltar on 7 May 2001.

11. On 19 April 2000, Spain and the United Kingdom successfully concluded discussions to resolve certain difficulties which had arisen relating to Gibraltar authorities in the context of European Union and European Community instruments and related treaties. As a result, formal communications and decisions to be notified between Gibraltar authorities and those in other member States under European Union legislation will be conveyed through a unit established in the Foreign and Commonwealth Office in London. The arrangement, which also covered issues of documentation and police cooperation, cleared the way for the passage of certain stalled European Union legislation. It was also agreed that "these arrangements or any activity or measure taken for their implementation or as a result of them do not imply on the side of the Kingdom of Spain or on the side of the United Kingdom any change in their respective positions on the question of Gibraltar or on the limits of that territory." Currently, other Gibraltar-related issues which are raised in the framework of the European Union are participation in European parliamentary elections (see paras. 35-36), border delays (see para. 22), the allocation of telephone lines (see para. 26) and "single sky" aviation agreements (see para. 24).

III. Economic conditions

A. General

12. Gibraltar has no known natural resources and lacks agricultural land. The industries, trades and services in the Territory mainly supply the needs of its population and the large number of visitors to the Territory. The economy of Gibraltar is largely dependent on tourism and the provision of financial services, such as banking, insurance, shipping and portfolio management.

13. The legal tender currency of Gibraltar is the pound sterling. Government of Gibraltar currency notes in circulation on 31 March 2000 stood at £12.4 million. The latest available estimate for national income relates to 1995/96, when per capita GDP was £116.80. Inflation in October 2000 was running at an annual rate of 1.4 per cent, an increase over 1999 figures when the annual rate was 0.2 per cent.

B. Public finance

14. According to the administering Power, departmental revenue credited to the Consolidated Fund for the year ending on 31 March 2000 totalled £140.6 million, whereas departmental expenditure amounted to £104.9 million, compared with £131 million and £93.9 million, respectively, in March 1999. The main sources of Consolidated Fund revenues were income tax, which totalled £49.6 million; import duties, which totalled £27.6 million; and general rates, which totalled £11.2 million.

15. On 31 March 2000, the public debt of Gibraltar stood at £70.6 million. Expenditures from April 1999 to March 2000 were as follows: education, youth, culture and the disabled, £15.7 million; environment, heritage and consumer affairs, £10.0 million; electricity, £10.5 million; police, £6.8 million; tourism and transport, £6.9 million; treasury, £6.0 million; secretariat, £6.4 million; building and works, £5.8 million; support services, £3.4 million; customs, £2.6 million; fire service, £2.4 million.

16. Income tax is charged on income accruing in, derived from or received in Gibraltar by any person or company. It is also charged on dividends, interest and emoluments of office accruing in, derived from or received in any place outside Gibraltar by any person ordinarily resident in Gibraltar, but when that income is taxed in the country of accrual and is not received in Gibraltar, it is exempt. The rates applicable to individuals resident in Gibraltar range from 20 per cent on the first £3,000 of taxable income to 50 per cent after the first £19,500. (See paras. 19-21 for further information on taxation.)

C. Trade

17. Provisional figures for 1999 show that total imports amounted to £480 million and total exports to £248.5 million. Nearly one half of Gibraltar's non-fuel imports originated from the United Kingdom. Other sources of imports included the Netherlands, Japan and Spain. Exports of goods of local origin were negligible. Exports consisted mainly of re-exports of petroleum and petroleum products supplied to ships, manufactured goods, wines, spirits, malt whisky and tobacco.

18. Import controls did not change during the period under review. Other than a few items of essential foodstuffs, gold, jewellery, petrol, caravans, endangered species and, more recently, fireworks and cigarettes, all goods can be imported under the Open General Licence.

D. Banking and finance

19. Gibraltar's international financial services sector stems from the enactment of the Companies (Taxation and Concessions) Ordinance in 1967, which made provision for a special tax regime for offshore companies. In 1997, the Gibraltar Finance Centre was established within the Department of Trade and Industry as the focal point for all financial activities in the Territory.[9] At the end of 2000, there were 20 banks authorized to conduct banking business in Gibraltar, five fewer than in December 1999. The banking sector serves offshore and local customers and has balance sheet footings of over £6 billion. As at 31 December 2000, there were also around 8,698 fully paid companies registered under the Companies (Taxation and Concession) Ordinance, up from 8,300 in December 1999. Companies registered under the ordinance pay a fixed annual tax, irrespective of profits made and regardless of whether these profits are received in the Territory. The exemption covers dividends, interest, directors' fees and annual payments

made to non-residents. Unless otherwise authorized, the company must not carry on trade or business in Gibraltar or in the United Kingdom and no Gibraltarian or resident of Gibraltar may have any beneficial interest in the company's shares.

20. According to the administering Power, Gibraltar is required to implement all European Community directives related to financial regulation. Gibraltar has made a commitment not only to implement the necessary measures to the minimum standard required within the European Union, but also to match United Kingdom standards of financial regulation. In that regard, the Government of Spain on several occasions has expressed concern that European Union directives have not been fully implemented in Gibraltar and has disputed information by the administering Power to the contrary. In February 1999, the United Kingdom submitted information to the European Union regarding the number of measures that had been implemented in Gibraltar (39), those that were inapplicable (31) and those that were in the "final stages of transposition" (8). In July 1999, the European Commission decided to refer the United Kingdom to the European Court of Justice for four cases of failure to implement in the Territory of Gibraltar the 4th and 7th Company Law Directives, requiring offshore companies to publish their accounts.[10] According to the administering Power, on 15 October 1999, the Gibraltar House of Assembly adopted the necessary primary legislation to bring into effect the two directives, a step which was notified to the European Commission.

21. A report issued in June 2000 by the Organisation for Economic Cooperation and Development (OECD) included Gibraltar in a list of 35 jurisdictions that met the technical criteria for being tax havens.[11] According to reports in the *Gibraltar Chronicle*,[12] the Chief Minister has reiterated the Government's commitment to reform taxation, while representatives of the Territory's Finance Centre wish to ensure that this commitment "is balanced with the continued proper operation of the Centre". Discussions between Gibraltarian authorities and OECD have taken place in London and Paris. In May 2001, two senior OECD officials visited Gibraltar as part of the ongoing dialogue and held technical discussions with the Chief Minister and the Minister for Trade, Industry and Telecommunications.[13]

E. Transportation, communications and utilities

22. Road transportation in and out of Gibraltar along the isthmus linking the Territory to Spain has been disrupted since February 1999 when Spain increased controls at its border post with Gibraltar, causing delays of up to six hours for vehicle traffic. According to press reports at the time, the Foreign Ministry of Spain announced that it would maintain the border controls until Gibraltar applied European Union directives to impede tax evasion, drug trafficking and money-laundering (see para. 47 below). Following a complaint on the matter submitted by the United Kingdom to the European Commission, a spokesman for the European Commission stated that there were no limits in the European Union's legislation regarding external border controls. The border issue continues to be raised by the United Kingdom in contacts with the Spanish authorities and the European Commission. The Minister for Foreign Affairs of Spain recently reiterated before the Foreign Affairs Commission of the Spanish Senate that the border controls over persons and merchandise "... are not politically motivated. They are proportionate and fully in line with Community rules. It was not Spain, but the United Kingdom, which erected the border in 1908, excluded Gibraltar from the common customs area and harmonized taxation, and sought to maintain border controls while joining Schengen. If these controls have any failings, it is rather that they are too lax and permissive, when viewed in terms of the gigantic 'duty-free shop' directed at the Spanish market that Gibraltar represents."[14] Regarding this matter, the United Kingdom Secretary of State for Foreign and Commonwealth Affairs has stated to the Foreign Affairs Committee of the House of Commons that "the Government remains of the view that the length and extent of the checks at the border between Gibraltar and Spain remain disproportionate and agrees with the Committee on the importance of the Spanish authorities normalizing the border regime".[15]

23. The total length of roads in the Territory is 26.75 miles (43.05 km). The roads are reported to be in good condition and suitable for vehicular traffic. Five bus routes serviced by 18 buses maintain communication in the Territory. The total number of registered vehicles rose from 31,349 in December 1999 to 32,915 on 31 December 2000.

24. Airline services to Gibraltar have recently increased. In addition to the scheduled flights to the United Kingdom, a Casablanca-Gibraltar route was inaugurated on 2 November 1999. Airmail is dispatched to London, and via London to all destinations worldwide, six times a week by direct flights. Surface mail to and from the United Kingdom is received and dispatched five times a week. According to press reports, disagreement between the United Kingdom and Spain with respect to the legal status of Gibraltar's airport recently blocked European Commission aviation agreements on a "single European sky".[16]

25. As the Strait of Gibraltar is a principal water route between the Mediterranean Sea and the rest of the world, Gibraltar is used as a port by many long-distance liners and cargo ships. It has dry-dock facilities and a commercial ship repair yard. Tax concessions are available to shipowners who register their ships at Gibraltar. In 1997, there were 27 merchant vessels and 1,334 yachts registered in Gibraltar with a total gross registered tonnage of 700,000. According to the Territorial Minister for Tourism and Transport, the ships calling at the Territory in 1998 represented a combined registered tonnage of over 117 million gross tonnes. That figure was expected to rise to 125 million tonnes during 1999. The Government of Gibraltar in December 1999 published a policy paper entitled "The Port of Gibraltar: Beyond 2000" with the aim of increasing revenue from existing port activities, generating new business and creating a Port Authority to replace the existing Port Department. The new Port Authority Committee met for the first time in October 2000 to examine development strategies.[17]

26. The local telephone system is operated by Gibraltar NYNEX Communications Ltd., a joint venture company formed in May 1990 and owned by the Government of Gibraltar and Verizon Communication, formerly Bell Atlantic. International telecommunications are operated by Gibraltar Telecommunications International Ltd. (Gibtel), a joint venture of the Government of Gibraltar and British Telecom. According to the administering Power, at the end of 2000, the total number of exchange lines was 23,541, a net increase of 1,625 over the previous year. In 1996, Gibtel and Gibraltar NYNEX lodged formal complaints before the European Commission alleging that the Government of Spain was in breach of European competition law in its non-recognition of Gibraltar's international dialling code and its prevention of mobile roaming agreements.[18] According to the Government of the United Kingdom, the matter of telephone lines in the Territory has been raised both bilaterally in its meetings with Spanish authorities and at the European Commission, where it is still under consideration. According to a statement made by the Spanish Foreign Minister in February 2001, Spain will not accede to Gibraltar's request for one million additional telephone lines because, "from any point of view, it is disproportionate for a population of barely 30,000 inhabitants and, in order to make these lines available, our firms would have to compete with companies that would offer telephone services from Gibraltar without charging the 16 per cent VAT applicable in Spain".[19]

27. The Electricity Department is responsible for the supply of electricity for civilian use in the Territory. The Ministry of Defence operates a separate undertaking to meet defence requirements. During 2000, maximum electricity demand was 23,100 kilowatts and a total of 125,366,325 kilowatt-hours were generated. Gibraltar is dependent on imported petroleum for its energy supplies.

F. Tourism

28. The total number of tourist arrivals in 2000 was 7.3 million compared with 6.1 million in 1999. Hotel arrivals in 2000 were 48,949, up from 42,031 in 1999. There are an estimated 2,000 hotel beds in Gibraltar. The Ministry of Tourism and Transport has introduced a policy for increasing the number of cruise ships that visit the Territory.

IV. Social conditions

A. Labour

29. According to the latest employment survey, the number of employees in Gibraltar was approximately 13,000. In April 1998, average weekly earnings for full-time workers in the Territory were £233.03. At the end of 2000, the distribution of persons employed by the five largest sectors was as follows: banking and finance, 2,247; public administration and defence, 2,031; retail trade, 1,974; building and construction,

1,496; and medical and health service, 885. Press reports indicate that the recent establishment of several United Kingdom betting operators in Gibraltar has created some 700 new jobs.[20]

30. The total number of unemployed persons at the end of 2000 was estimated at 397, down from around 446 at the end of 1999. The standard weekly rate of unemployment benefit is £37.20 with an increase of £18.30 a week for any one dependent adult. A total of 493 claims were received during 2000, of which 435 were allowed.

31. Legislation regulating labour and employment conditions in the Territory is reported to be in line with European Union directives. The Trade Unions and Trade Disputes Ordinance of Gibraltar contains provisions similar to those in the United Kingdom for the registration and organization of trade unions. As of December 1995, 20 trade unions were registered in the Territory.

B. Human rights and the status of women

32. The Gibraltar (Constitution) Order of 1969 guarantees the protection of the fundamental rights and freedoms of the individual and the maintenance of a Supreme Court with unlimited jurisdiction to hear and determine any civil or criminal proceedings under any law and with such jurisdiction and powers as are conferred upon it by the Constitution of Gibraltar or any other law.

33. Several major international human rights instruments have been extended to the Territory by the administering Power. These include the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

34. The status of women in Gibraltar, whether married or single, with or without family responsibilities, is similar to that enjoyed by women in the United Kingdom. The social security ordinances of Gibraltar provide for the payment of a variety of benefits and allowances to expectant mothers and widows.

35. On 18 February 1999, the European Court of Human Rights determined by a vote of 17 to 2 that, with regard to Gibraltar, the United Kingdom had violated article 3 of Protocol 1 of the European Convention on Human Rights, concerning the right to participate in European parliamentary elections. The proceedings had been initiated by a citizen of Gibraltar, Denise Matthews, who, upon applying to register as a voter in the European parliamentary elections in 1994, had been told that, under the terms of the European Community Act on Direct Elections of 1976, Gibraltar was not included in the franchise. The Court ruled that article 3 of Protocol 1 applied to Gibraltar and that the United Kingdom was responsible for securing the rights guaranteed by it.

36. In response to questions about the voting issue posed by the Foreign Affairs Committee of the House of Commons of the United Kingdom, in October 2000 the Secretary of State for Foreign and Commonwealth Affairs stated the following:

> "The Government's previous response to the Committee made it clear that it was actively seeking enfranchisement before the 2004 elections. The Government remains committed to this goal. The Government is committed to fulfilling its obligation to give effect to the Matthews judgement, and considers that the best method of enfranchising Gibraltar would be by amendment to the 1976 European Community Act on Direct Elections. It is continuing its efforts to this end. But other options, including unilateral action, remain under consideration".

C. Environment

37. In 1996, the Environmental Health Department, which was a territorial Government department, ceased to exist. The functions formerly carried out by the Department have been transferred to a fully privatized Environmental Agency. The chief Environmental Health Officer is responsible for the overall operation of the Environmental Agency and is answerable to the Minister for the Environment and Health.

38. The Nature Protection Ordinance (1991) protects Gibraltar's terrestria' and maritime life and provides for the creation of nature reserves such as that declared on an area of the Upper Rock. The United Kingdom has ratified a number of environmental conventions on

behalf of Gibraltar. The Control of Trade in Endangered Species Ordinance (1998) complies with international and European Union regulations. The European Habitats Directive has been implemented and the designation of sites under the Natura 2000 programme is in progress.

D. Housing

39. According to reports of the administering Power, the Government of Gibraltar has pursued a policy of increased home ownership both to alleviate the housing shortage and to reduce the burden of increasing repair and maintenance costs for its rented accommodations. Home ownership in Gibraltar has increased from a level of 6 per cent in 1985 to 25 per cent in 1994, and to approximately 34 per cent in 1999. In 2000, there has been no noticeable increase in home ownership, but the Government has announced its intention to construct more apartments for sale in the near future. At the end of 2000, the government housing waiting list contained 432 applicants, compared with 570 at the end of 1999.

E. Social security and welfare

40. The contributory schemes of the Social Security system cover all peoples employed under a contract of service and, as from 1975, the self-employed. There is provision also for those who cease to be compulsorily insured to become voluntary contributors. The schemes are financed from weekly contributions paid by employers, workers and the self-employed. The benefits paid under the various Social Security Ordinances cover industrial accidents and diseases, unemployment, old age pensions, guardians' allowances, widows' benefits, maternity grants and allowances and death grants.

F. Public health

41. The Gibraltar Health Authority is responsible for providing health care in the Territory. The Authority operates a group practice medical contributory scheme and gives registered persons access to free medical treatment. The Expenditure of the Gibraltar Health Authority for the period 1 April 1999 to 31 March 2000 was £28.4 million.

42. St. Bernard's Hospital, with a total of 166 beds, provides comprehensive out-patient services and in-patient treatment for acute medical and surgical cases. It also has a maternity section and two wards for elderly patients. The King George V Psychiatric Unit has 60 beds and provides diverse types of psychiatric treatment, including in-patient and out-patient services. The Primary Care Centre houses the General Practice Surgeries, the child welfare and school medical services (which include immunization and vaccination), the dental clinics and health visitors. In his New Year Message of 5 January 2001, the Chief Minister stated that the construction of a new hospital at Europort would begin during 2001.

43. According to press reports, Gibraltar has 90 registered medical practitioners. These include 56 doctors, 14 dental practitioners and 20 pharmacists. A Medical Registration Board was established as a result of the Medical and Health Ordinance of 1997. The Board monitors the annual registration of medical specialists wishing to practice in Gibraltar. A programme of visits by consultants from the United Kingdom covers specialties such as paediatric neurology, cardio-thoracic surgery and plastic surgery.

G. Public education

44. The Education Department continues to be in charge of public education in Gibraltar. Expenditure on education as at the end of March 2000 was £15.26 million. A programme of major improvements to government schools was completed in 2000 at a cost of £1.6 million.

45. As of 2000, there were 13 primary schools (11 of them Government-run, one private and one services school) with a total of 3,829 students enrolled. There were also four single-sex secondary schools, two of which were Government-run, with a total of 1,787 students. The remaining two secondary schools were private schools catering mainly for Jewish girls and boys. There is also a technical and vocational college with 235 enrolled students. The number of teachers employed in Gibraltar during the 2000/01 academic year is 364. All tertiary education is sponsored and students satisfying entry criteria are entitled to scholarships to study in the United Kingdom. Currently, 605 Gibraltarians are reportedly pursuing university studies in the United Kingdom.

46. According to the Chief Minister, efforts are under way to provide greater recreation facilities for Gibraltar's youth, through improvements to the Victoria Stadium Sports Complex, the construction of a new Skate Park and the planning of the proposed King's Bastion Youth Leisure Centre.

H. Crime and crime prevention

47. The White Paper (see para. 6 above), under the heading "Encouraging good government — combating drug trafficking and drugs-related trade", noted legislation enacted by the local Government in Gibraltar in 1995 and 1996 that banned Gibraltar-based fast boats. According to information supplied by the administering Power, the activities of Gibraltar-based fast boats and rigid inflatables had been effectively eliminated and illicit trafficking involving Gibraltar had ceased to be a problem. During the period under review, the Government of Spain continued to express concern at what it considers to be the use of Gibraltar for laundering proceeds from drug trafficking or other illicit activities. The administering Power has pointed out that Gibraltar has introduced money-laundering legislation meeting United Kingdom and European Commission standards.

48. According to the Government of Gibraltar, the Royal Gibraltar Police (RGP) enjoys a very satisfactory level of manpower, funding and other resources relative to Gibraltar's size, law and order problems and financial resources.[21] In 1998, £800,000 was invested in a new radio communications system for RGP, while during the 2000 financial year, the Government planned to invest £200,000 in a new police launch and £350,000 in a new marine section headquarters, primarily for RGP. From April to December 2000, 1,296 minor offences (such as those related to liquor, disorderly conduct and firearms violations) were reported and during the same period 1,016 persons were arrested or reported for these minor offences. Also reported from April to December 2000 were 1,246 serious crimes (such as those related to violence against the person, sexual offences, burglary and drugs). The Penal Administration of Gibraltar has one prison with 36 cells. The total number of prisoners received during 2000 was 218 with a daily average prison population of 19 persons.

V. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

49. The Special Committee considered the question of Gibraltar during the fifty-fifth session of the General Assembly at its 5th meeting, on 5 July 2000, and had before it a working paper concerning the Territory (A/AC.109/2000/10). The Special Committee heard a statement made by the Chief Minister of Gibraltar, Peter Caruana. In addition, in accordance with a decision taken at the outset of the meeting, a statement was made by Joseph Bossano, Leader of the Opposition in Gibraltar. The Special Committee acceded to the request of the delegation of Spain to participate in the Committee's consideration of the question of Gibraltar. The representative of Spain made a statement at the meeting.

50. At the same meeting, the Special Committee decided to continue its consideration of the question at its next session, subject to any directives that the General Assembly might give in that connection at its fifty-fifth session and, in order to facilitate consideration of the question by the Fourth Committee, to transmit the relevant documentation to the Assembly.[22]

B. Special Political and Decolonization Committee (Fourth Committee)

51. At its 5th meeting, on 27 September 2000, the Fourth Committee heard a statement by the Chief Minister of Gibraltar, Peter Caruana (see paras. 56-61 below) and a statement by petitioner Joseph Bossano, Leader of the Opposition in Gibraltar (see A/C.4/55/SR.5). At its 7th meeting, on 29 September, the Committee heard a statement by the representative of Spain (see para. 63 below). At the same meeting, the representative of the United Kingdom spoke in exercise of the right of reply (see A/C.4/55/SR.7).

52. At its 8th meeting, on 3 October 2000, the Committee had before it a draft decision entitled "Question of Gibraltar" (A/C.4/55/L.4), submitted

under agenda item 18. At the same meeting, the Committee adopted the draft decision without a vote (see A/C.4/55/SR.8).

C. Action by the General Assembly

53. At its 83rd plenary meeting, on 8 December 2000 (see A/55/PV.83), the General Assembly, on the recommendation of the Special Political and Decolonization Committee (Fourth Committee), adopted decision 55/427 without a vote. The decision read as follows:

> "The General Assembly, recalling its decision 54/423 of 6 December 1999, and recalling at the same time that the statement agreed to by the Governments of Spain and the United Kingdom of Great Britain and Northern Ireland at Brussels on 27 November 1984 stipulates, inter alia, the following:
>
> > 'The establishment of a negotiating process aimed at overcoming all the differences between them over Gibraltar and at promoting cooperation on a mutually beneficial basis on economic, cultural, touristic, aviation, military and environmental matters. Both sides accept that the issues of sovereignty will be discussed in that process. The British Government will fully maintain its commitment to honour the wishes of the people of Gibraltar as set out in the preamble of the 1969 Constitution',
>
> "Takes note of the fact that, as part of this process, the Ministers for Foreign Affairs of Spain and of the United Kingdom of Great Britain and Northern Ireland hold annual meetings alternately in each capital, the most recent of which was held in London on 10 December 1997, and urges both Governments to continue their negotiations with the object of reaching a definitive solution to the problem of Gibraltar in the light of relevant resolutions of the General Assembly and in the spirit of the Charter of the United Nations."

VI. Future status of the Territory

A. Position of the administering Power

54. At the 15th plenary meeting of the General Assembly at its fifty-fifth session, on 14 September 2000 (see A/55/PV.15), the representative of the United Kingdom, in exercise of his right of reply,[23] stated:

> "The long-standing position of the British Government on this matter is well known to the Government of Spain. I will simply restate it briefly here.
>
> "British sovereignty over Gibraltar was clearly established in the Treaty of Utrecht. This legal fact is incontrovertible. Moreover, the British Government stands by the commitment to the people of Gibraltar as contained in the preamble to the 1969 Constitution of Gibraltar, which states that Her Majesty's Government will never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another State against their freely and democratically expressed wishes.
>
> "The British Government believes that issues relating to Gibraltar can be resolved only by building trust, cooperation and dialogue and through direct talks aimed at overcoming differences, such as those established under the 1984 Brussels Declaration.
>
> "We attach continuing importance to our dialogue with Spain."

55. The above position was reiterated by the representative of the United Kingdom speaking in exercise of the right of reply at the 7th meeting of the Fourth Committee, on 29 September 2000 (see A/C.4/55/SR.7).

B. Position of the territorial Government

56. At the 5th meeting of the Fourth Committee, on 27 September 2000 (see A/C.4/55/SR.5), the Chief Minister of Gibraltar, Mr. Caruana, stated that, in addressing the General Assembly, the Minister for Foreign Affairs of Spain had deplored Gibraltar's continuing colonial status and suggested that the United Nations should finish the task of decolonization and eliminate the last vestiges of colonialism. One

could only agree with that viewpoint, but the people of Gibraltar disagreed about the methods envisaged for achieving that goal. The people of Gibraltar enjoyed the inalienable right to self-determination as a colonial people, but Spain asserted that they were not a colonized people but rather the descendants of the colonizing people, as Spain's representative to the Fourth Committee had put it at the fifty-fourth session of the General Assembly. Residents of Gibraltar were in reality the descendants of peoples from many parts of Europe who had settled in the colony after 1704. The peoples who, throughout much of South America, had exercised rights equivalent to the modern right to self-determination were in fact the descendants of the colonizing people, namely Spain. There was no alternative to the principle of self-determination: that had been acknowledged by members of the Special Committee and the Fourth Committee. Spain nevertheless asserted that Gibraltar should be decolonized on the basis of a so-called principle of "territorial integrity". No such principle with regard to decolonization was recognized under international law, as demonstrated by the advisory opinion in the case on Western Sahara of the International Court of Justice, in which the Court had indicated that the freely expressed will of the people was the very sine qua non of decolonization.

57. Mr. Caruana pointed out that Spain, on the other hand, asserted that there was a special United Nations doctrine on colonies that were what it called "territorial enclaves". The people of Gibraltar considered that there was no such doctrine in the United Nations or in international law. The sole principle of decolonization applicable to any colonial territory was self-determination. Spain asserted that the application of the principle of self-determination to the decolonization of Gibraltar and its people would be a breach of its territorial integrity and national unity and thus incompatible with the purposes and principles of the Charter. Residents of Gibraltar considered that such an assertion had no application to the decolonization of Gibraltar, because if Spain's territorial integrity had indeed been breached, that had occurred 296 years before and was not the result of the exercise of the right to self-determination by the people of Gibraltar. The principle of territorial integrity applied solely in cases when the secession of territories from a State could not be justified by the principle of self-determination. That was not the case of Gibraltar or any other colony.

58. Mr. Caruana also stated that Spain asserted that a provision in the Treaty of Utrecht of 1713 denied the people of Gibraltar the right to self-determination. Even Gibraltar's administering Power, the United Kingdom, having once claimed that the Treaty did not affect the right to self-determination, now stated that although Gibraltar had that right, it was curtailed by the Treaty of Utrecht. The people of Gibraltar considered that, no matter how the Treaty was interpreted, nothing could displace the right to self-determination, since it was enshrined in the Charter of the United Nations, which took precedence in accordance with international legal principles. In the light of those contradictions, the Fourth Committee should call for the International Court of Justice to determine whether the principle of self-determination of the people of Gibraltar was applicable to the decolonization of Gibraltar; if it was, whether that right was curtailed by the 1713 Treaty of Utrecht, in any way; and, if so, in what way. Gibraltar's Parliament had unanimously adopted a resolution to that effect. Recalling Spain's assertion that, even though Gibraltar was a colony of the United Kingdom, the people of Gibraltar, as decedents of the colonizing people, were not a colonial people and accordingly could not enjoy the right to self-determination, he pointed out that no one who visited Gibraltar could think that its residents were not a distinct people. Their origins were a mixture of Mediterranean and British stock, an ethnic cocktail that mirrored that historical and modern composition of many States Members of the United Nations and was complemented by a diversity of cultural influences. The residents of the Territory formed a distinct and unique people that could most accurately be described as "Gibraltarians".

59. Gibraltar enjoyed a large measure of self-government through its own elected Government and the Parliament in which its laws were adopted. It had its own public administration, police and judiciary and was operating a successful, diverse and modern economy. Spain gave a much less complimentary description of Gibraltar's economy, a description which was, no doubt, politically motivated. The Fourth Committee must take neither Spain's nor Gibraltar's word about the situation: it was simply necessary to visit the Territory, assess on the spot the economic, political, social and cultural realities and determine whether the inhabitants were a distinct people with the right to decolonization through the exercise of self-determination.

60. Gibraltar was not afraid of a dialogue with Spain and sought to develop good relations with it, but a dialogue about Gibraltar must be structured in such a way as to give the people of the Territory a voice, in the form of elected leaders and Government. That was why the decision put forward by the Fourth Committee year after year, which called for bilateral dialogue between the administering Power, the United Kingdom, and a third-party territorial claimant, Spain, was unhelpful. Spain proceeded from the thesis that it was a case, not of decolonization, but of a bilateral sovereignty dispute in which the people of Gibraltar had no voice. In fact, no progress had been made in bilateral talks on the issue since they had commenced in 1984. He therefore renewed his appeal to the Fourth Committee to introduce into its annual decision a call for constructive dialogue in which representatives of the people of Gibraltar would participate.

61. Referring to the Special Committee's intention to formulate an updated plan of action for the eradication of colonialism by developing a constructive programme of work on a case-by-case basis for all the Non-Self-Governing-Territories by the end of 2000, he recalled that he had urged the Special Committee, when developing the programme for Gibraltar, to include in it four points: dispatch of a visiting mission to Gibraltar; proclamation by the Special Committee of its recognition of the inalienable right of the people of Gibraltar to self-determination; referral of the issue, in the event the Special Committee had any doubts, to the International Court of Justice; and a call by the United Nations for dialogue with proper representation for the people of Gibraltar.

C. Position of the Government of Spain

62. At the 15th plenary meeting of the General Assembly, on 14 September 1999 (see A/55/PV.15), Mr. Josep Piqué, Foreign Minister of Spain, stated the following:

> "Another of the United Nations goals must be to conclude the decolonization process worldwide, by doing away with the last vestiges of colonialism. One of them persists, as a painful anachronism, in Spanish territory. I am, of course, referring to Gibraltar where, nearly three centuries after its population was expelled and the Rock was occupied by British troops, a colonial situation still lingers. This is an infringement of my country's territorial integrity and contravenes the provisions of General Assembly resolution 2353 (XXII). Regaining sovereignty over this part of our territory is a long-standing goal for Spain, which is fully in favour of a meaningful dialogue. It is regrettable that the United Kingdom has not yet shown a genuine political will to solve this problem. Because of this, 15 years after the start of bilateral talks in the framework of the Brussels process and despite the decisions of this General Assembly, we have not registered any progress at all on this matter, in spite of several concrete proposals put forward by our side."

63. At the 7th meeting of the Special Political and Decolonization Committee (Fourth Committee), on 29 September 2000, the representative of Spain stated the following:

> "This year once again the Spanish delegation is appearing before this Committee to address a question that is particularly painful for my country: the United Kingdom's occupation of Gibraltar, a part of Spanish territory. The Spanish Government's position is well known to the members of the Committee. It was reaffirmed by the Spanish Minister for Foreign Affairs in the General Assembly on 14 September 2000: Gibraltar is a colony subject to the decolonization process; the decolonization of Gibraltar must be carried out in accordance with the principle of territorial integrity as laid down in the United Nations doctrine contained in various resolutions, such as General Assembly resolutions 1514 (XV) and 2625 (XXV); regaining sovereignty over Gibraltar is an objective which Spain will not relinquish.
>
> "To date, the negotiation process between Spain and the United Kingdom has made no significant progress. We regret that the United Kingdom is still refusing to work with us to end this colonial situation, despite the commitment that it made more than 15 years ago in the Brussels Declaration and the decisions that are adopted year after year by the General Assembly.
>
> "Failing the start of serious negotiations to seek a resolution of the dispute between the United Kingdom and Spain, the only ones competent to discuss the sovereignty issue, Gibraltar has become, in addition to a problem of

sovereignty, a problem of relations between neighbours. With the United Kingdom's approval and under the protection of the arrangements and special conditions introduced by the colonial Power, Gibraltar is today a gigantic 'duty-free shop' directed at the Spanish market, subjecting Spain to widespread economic and fiscal dumping because of the lack of transparency in its financial and corporate systems and impoverishing the surrounding region by distorting the conditions of competition. In addition, in the Territory there is a British military base, the operation of which right next to Spain directly affects our legitimate security interests and, in particular, the interests of the nearly 300,000 inhabitants of the area adjacent to the colony."

64. During the period under review, the Spanish position on Gibraltar has been reiterated by the Minister for Foreign Affairs, in terms similar to those reflected in paragraphs 62 and 63 above, in statements made to the Foreign Affairs Committees of the Spanish Senate and the Spanish Congress on 8 February 2001 and 14 March 2001, respectively. Following the latter statement, a plenary session of Congress approved a motion reaffirming the position of Spain on the matter. In addition, according to press reports, the Spanish President stated on 15 March 2001, that "any change in Gibraltar's status represents a serious violation of the Treaty of Utrecht and would therefore be considered by Spain as a very grave act".[24]

D. Anglo-Spanish negotiations

65. No meetings were held within the negotiating process established by the Brussels joint communiqué of 27 November 1984 during the period under review. It will be recalled that, according to the communiqué, the Ministers for Foreign Affairs of Spain and the United Kingdom agreed to hold annual meetings alternately in each capital with the objective of reaching a definitive solution to the problem of Gibraltar. The last meeting indicated as being held within the Brussels framework was on 10 December 1997. During that meeting the Spanish Minister for Foreign Affairs made a formal offer to the United Kingdom Government regarding a future status for Gibraltar, whereby the Territory would come under Spanish sovereignty, yet retain a large degree of local political and administrative autonomy (see A/AC.109/2112, para. 72). The Government of the United Kingdom has not formally responded to the proposal.

E. Anglo-Gibraltarian discussions

66. During the period under review, there were regular meetings and discussions between the United Kingdom and Gibraltarian ministers and officials. Those discussions included talks on the modernization of Gibraltar's Constitution, as referred to in paragraph 6 above. According to the Government of Gibraltar, the recently established Select Committee on Constitutional Reform aims to reach "consensus on constitutional proposals to submit to the United Kingdom such as would put an end to the colonial status of Gibraltar in a manner acceptable to the people of Gibraltar in an act of self-determination". Speaking before the United Kingdom's House of Commons Select Committee on Foreign Affairs, the Minister for Europe stated on 7 March 2001 that "the people of Gibraltar live with the situation; their wishes and the wishes of the Government of Gibraltar are paramount, and we will continue to listen to what they have to say".[25]

67. In this respect, both the British and the Spanish media have reported a Foreign Office spokesperson reiterating that the United Kingdom Government will consider Constitutional reform proposals put to it by Gibraltar, while adding that "any proposal would have to be in line with international obligations, including the Treaty of Utrecht".[26]

68. A further statement issued by the Foreign and Commonwealth Office on 11 April 2001 reiterated the United Kingdom's defence of Gibraltar's interests: "We attach great importance to resolving what are very important issues for Gibraltar — border delays, telephone lines and European Parliament voting rights. The Minister for Europe, Keith Vaz, and senior officials of the Foreign and Commonwealth Office have regular meetings with the Chief Minister of Gibraltar and there are ongoing discussions on key matters of mutual interest. We believe that the best way forward is building confidence and encouraging a climate of cooperation. The arrangements reached last year on a number of issues concerning Gibraltar and the European Union have already shown what can be

achieved in this climate. We need to build on this process".[27]

Notes

[1] Information contained in the present working paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 *e* of the Charter of the United Nations, on 12 April 2001, as well as from the official documents of the Government of Spain.

[2] Official web site of the Government of Gibraltar (http://www.gibraltar.gov.gi/).

[3] *Official Records of the General Assembly, Twenty-fourth Session, Supplement No. 23* (A/7623/Rev.1), vol. III, chap. XI, annex, paras. 7-23.

[4] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", White Paper submitted to the House of Commons on 17 March 1999 by the United Kingdom Secretary of State for Foreign and Commonwealth Affairs; reproduced in A/AC.109/1999/1, annex.

[5] Government of Gibraltar, Chief Minister's New Year Message, 5 January 2001.

[6] Gibraltar Elections 2000 web site (http://www.gibraltar.gi/election).

[7] Report by the Foreign Affairs Committee, House of Commons, 8 June 1999 (accessed at http://www.parliament.uk/).

[8] Statement by the Minister for Foreign Affairs of Spain to the Foreign Affairs Committee of the Spanish Congress, Madrid, 29 November 2000.

[9] Official web site of the Government of Gibraltar (http://www.gibraltar.gov.gi/).

[10] European Commission statement IP/99/439, 2 July 1999.

[11] Organisation for Economic Cooperation and Development, *Progress in Identifying and Eliminating Harmful Tax Practices*, June 2000.

[12] *Gibraltar Chronicle*, 24 February 2001.

[13] Government of Gibraltar, Press Release, 4 May 2001.

[14] Statement by the Minister for Foreign Affairs of Spain to the Foreign Affairs Commission of the Spanish Senate, Madrid, 8 February 2001.

[15] Ninth Report of the Foreign Affairs Committee, Session 1999-2000; Gibraltar Follow-up. Response of the Secretary of State for Foreign and Commonwealth Affairs, October 2000.

[16] Reuters, 8 March 2001; *El Pais*, 8 March 2001.

[17] Government of Gibraltar, Press Release, 10 October 2000.

[18] Government of Gibraltar, Press Release, 23 February 2001, and Select Committee on Foreign Affairs, Appendix 4, Memorandum submitted by the Foreign and Commonwealth Office.

[19] Statement by the Minister for Foreign Affairs of Spain to the Foreign Affairs Commission of the Spanish Senate, Madrid, 8 February 2001.

[20] *Financial Times*, 18 October 2001.

[21] Government of Gibraltar, Press Release, 15 May 2001.

[22] A/55/23 (Part II), paras. 58-65 (to be issued as *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 23*).

[23] To the statement of the representative of Spain (para. 62 below); see A/55/PV.15.

[24] Reuters/EFE, 15 March 2001; *El Pais*, 16 March 2001.

[25] Select Committee on Foreign Affairs, Minutes of Evidence, 7 March 2001.

[26] 16 March 2001 editions of *Gibraltar Chronicle*, *ABC*, *Diario 16* and *La Vanguardia*.

[27] Official web site of the United Kingdom Foreign and Commonwealth Office (www.fco.gov.uk/news), Press Release, 11 April 2001.

United Nations A/AC.109/2001/11

General Assembly

Distr.: General
15 May 2001
English
Original: English/Spanish

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Falkland Islands (Malvinas)

Working paper prepared by the Secretariat

Contents

		Paragraphs	Page
I.	General	1	3
II.	Constitutional and political developments	2–13	3
	A. Constitution and Government	2–5	3
	B. Political developments	6–13	4
III.	Mine clearance	14	6
IV.	Economic conditions	15–30	6
	A. General	15–16	6
	B. Public finance	17–18	7
	C. Agriculture, land tenure and livestock	19–20	7
	D. Fisheries	21–23	7
	E. Tourism	24	10
	F. Oil	25	10
	G. Transport, communications and other basic facilities	26–29	11
	H. Banking and public works	30	11
V.	Social conditions	31–35	11
	A. General	31–32	11
	B. Public health, social security and welfare, housing and education	33	12

01-37232 (E) 010601 210601

C. Other developments 34–35 12

VI. Participation in international organizations and arrangements 36 12

VII. Consideration by the United Nations 37–56 12

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples 37–42 12

B. Position of the Government of Argentina 43–45 14

C. Position of the administering Power 46–47 14

D. Contribution by other Member States 48–51 15

E. Action by the General Assembly 52 16

F. Consideration by other intergovernmental organizations and international forums 53–56 16

I. General

1. The Falkland Islands (Malvinas)[1] is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory comprises two large islands, known as East and West Falkland, as well as some 200 smaller islands, and has a total area of about 12,173 square kilometers (4,700 square miles). The Territory is situated in the South Atlantic, about 770 kilometers north-east of Cape Horn and about 480 kilometres east of the South American mainland. South Georgia, located about 1,300 kilometres south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, located about 750 kilometres east-south-east of South Georgia, are administered from the Falkland Islands (Malvinas) as a separate Territory; the Governor of the Falkland Islands (Malvinas) acts as Commissioner for South Georgia and the South Sandwich Islands. According to the results of a census conducted in April 2001, the current estimate of the population of the Territory is 2,400.

II. Constitutional and political developments

A. Constitution and Government

2. The Constitution of the Falkland Islands (Malvinas), which came into effect on 18 April 1985, vests executive power in a Governor, who is the personal representative of the British monarch, assisted by an Executive Council. The Executive Council comprises three members of the Legislative Council elected annually by the eight elected members of that Council from among their own number, and two ex officio members, the Chief Executive and the Financial Secretary, who also sit on the Legislative Council. In addition, the Attorney-General and the Commander of the British Forces in the Falkland Islands (Malvinas) attend by invitation. The Legislative Council, chaired by the Governor, has eight members elected by universal adult suffrage. General elections are held every four years. The voting age is 18. The Legislative Council also has two non-voting ex officio members, the same who sit on the Executive Council. It will be recalled that the Constitution of the Territory stipulates, inter alia, that: "whereas all peoples have the right of self-determination and by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development and may, for their own ends, freely dispose of their natural resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit and international law; and whereas the realization of the right of self-determination must be promoted and respected in conformity with the provisions of the Charter of the United Nations".

3. The Falkland Islands Constitution (Amendment) Order 1997 came into force on 1 September 1997. A copy of the Falkland Islands Constitution (Amendment) Order 1997 and of the Falkland Islands Constitution (Amendment) (No. 2) Order 1997, which came into force in February 1998, have been submitted to the Secretariat by the administering Power. Further information on constitutional aspects, including amendments to the Electoral Ordinance, is contained in the 1999 working paper prepared by the Secretariat (A/AC.109/1999/12).

4. In April 2000, the Legislative Council of the Falkland Islands (Malvinas) decided to establish a Select Committee, comprising all elected members, to review the Falkland Islands (Malvinas) Constitution "in recognition of the mature partnership that the Islands enjoy with the United Kingdom Government". The Select Committee, which is undertaking wide public consultation, has as its function "to examine and make proposals to the Council in relation to possible changes and amendments to the Falkland Islands Constitution Order 1985, and to submit or request the submission of such proposals as are agreed by the Legislative Council to Her Majesty's Government for its consideration and if thought appropriate by Her Majesty's Government, incorporation in a revised Constitution for the Falkland Islands". The Deputy Legal Adviser at the Foreign and Commonwealth Office, and the Secretary-General of the Commonwealth Parliamentary Association visited the Islands during 2000 to provide advice and assistance in the process.

5. The most recent general election was held in October 1997. The next election is scheduled to take place on 22 November 2001.

B. Political developments

6. On 30 May 2000, in an address to the Argentine Council for Foreign Relations the Minister for Foreign Affairs, International Trade and Worship of Argentina stated the following:

> "Since it is an objective set forth in the Constitution, the National Government views its policy with regard to the Malvinas, South Georgia and South Sandwich Islands and the surrounding maritime areas as a sustained effort to regain the exercise of sovereignty over those territories, respecting the way of life of their inhabitants.
>
> "Our Government and our country are prepared to resume bilateral negotiations with London on the sovereignty dispute in the manner indicated in successive resolutions of the United Nations and the Organization of American States (OAS)."

7. On 10 June 2000, the Government of Argentina issued the following press communiqué:

> "On 10 June, 'Day of affirmation of Argentine rights to the Malvinas Islands and the Antarctic Sector', the Argentine nation commemorates the establishment of the Political and Military Command of the Malvinas Islands and the Islands Adjacent to Cape Horn in the Atlantic Ocean, in accordance with the decree by the Interim Governor of the Province of Buenos Aires, Brigadier General Martín Rodríguez, in 1829.
>
> "Since the beginning of its existence as an independent nation, the Argentine Republic has demonstrated, through actions by the Government, the firm political determination to exercise its effective sovereignty in the southern territories and maritime areas inherited from Spain.
>
> "This effective exercise of sovereignty was interrupted on 3 January 1833, when British forces occupied the Islands, expelling the population and the Argentine authorities established there. Subsequently, Argentine citizens were prevented from settling freely or owning land in those territories.
>
> "The Argentine people and Government never accepted that act of force and today reiterate, just as in the past, their unwavering determination to regain through the peaceful means of diplomatic negotiations and in accordance with the numerous appeals by the international community, the exercise of sovereignty over the Malvinas, South Georgia and South Sandwich Islands and the surrounding maritime areas.
>
> "The Argentine claim has traditionally been supported by the countries of our region and the relevant international bodies, including the General Assembly of the United Nations and the General Assembly of the Organization of American States. These forums have repeatedly requested the Governments of the Argentine Republic and the United Kingdom to resume negotiations making it possible to resolve the sovereignty dispute definitively and in a peaceful manner.
>
> "On this momentous date, the Argentine Government reiterates its constant readiness for dialogue with the United Kingdom, in order to resume negotiations with a view to resolving, as soon as possible, in a just and definitive manner, the pending sovereignty dispute."

8. On 12 July 2000, speaking at the Falkland Islands Forum on the theme of "Sustaining a secure future", held in London, Minister of State John Battle delivered a statement entitled "A modern partnership with the Falklands":

> "Today I want to talk about partnerships fit for the twenty-first century, partnerships for progress and prosperity. That is the essence of our relationship with the Overseas Territories, as expressed in our March 1999 White Paper on the Overseas Territories. This Forum's theme, 'Sustaining a secure future' reflects this well. First, a modern partnership with the Falklands needs to be founded on the idea that Falklanders can decide their own future. Self-determination was one of the best and most popular ideas of the twentieth century. With the entry into force in 1976 of the International Human Rights Covenants, self-determination gained the force of international law as a fundamental, collective human right. (...) Second, the partnership, like all partnerships creates responsibilities on both sides. For our part, the most important of our

responsibilities towards the Falklands are defence and foreign affairs. We are unequivocally committed to ensuring the security of the Falkland Islands. We will continue to station a strong garrison there, with resources from three armed services.

"In foreign affairs we represent and promote the interests of the Falklands wherever they are affected around the world. This might be directly with other countries, or in multilateral institutions such as the United Nations. In particular, negotiations to protect the environment or arrangements for air service or where our sovereignty over the islands is challenged. (...)

"A third element of our modern partnership is the exercise of democracy. Falklanders have a proud record in this respect. The Legislative Council, composed of eight Councillors, is chosen by Falklanders. They pass local laws, Ordinances. They also elect three of their number to sit on the Executive Council. The Falklands Legislature, with powers set in the Constitution, is lively, governs the Islands efficiently and is a beacon of democracy. It reflects well on the political maturity of the Islanders the quality of Councillors and the professionalism of the Falkland Islands Government that the governance of the islands is so effective — it is a model of good governance ...".

9. In a broadcast to the Islands on 2 January 2001 giving a New Year's message on the British Broadcasting Corporation (BBC), the Prime Minister of the United Kingdom, Mr. Tony Blair, declared:

"The year 2000 was always going to be a momentous one. I know that for all of you in the Falkland Islands it has been a year of promise and progress. The world's changing fast. In particular, the ever-expanding world of the Internet is bringing us all closer together. Cultural and linguistic barriers have been broken down. More and more of us can now have access to a phenomenal amount of information. Electronic commerce has huge implications for our economies, and I know that in the Falkland Islands you are doing much more than just keeping up with the pace of change. You are actively reaching out for new opportunities for economic development and seeking out a place in this new global order.

"At the Falkland Islands Forum in July, business, media investors and conservationists met to talk about constructive partnerships and the way ahead for the Falkland Islands. The Forum was a terrific initiative and a great success. It successfully projected the image of a modern Falkland Islands, gearing up for the challenges of guaranteed economic growth while protecting your remarkable environment.

"John Battle set out clearly at that meeting the basis for our continuing partnership for the Falkland Islands: your right to self-determination and our guarantee of your security. Let me reiterate here those vital commitments, and I hope that this promise of stability will enable us all to work wholeheartedly towards sustaining a secure future for the Falkland Islands.

"I would like to take the opportunity also to salute your courage in agreeing to develop links with Argentina where cooperation is in our mutual interest. This approach offers the possibility of a sound working relationship with Argentina without compromising the fundamental principal that sovereignty is not negotiable. We are making headway on the question of the feasibility of landmine clearance as well as on oil exploration and fish stocks in the South Atlantic. These are important issues and they will not be solved overnight but I welcome steps in, what I am convinced, is the right direction.

"So, it seems to me that the Falkland Islands are looking frankly at the future and at the opportunities which lay ahead. Please rest assured that this Government is committed to supporting you in this dynamic process whilst ensuring your security. (...)"

10. By letter dated 3 January 2001 (A/55/729) addressed to the Secretary-General, the Permanent Representative of Argentina transmitted a press communiqué on the occasion of "another anniversary of the illegitimate British occupation of the Malvinas Islands". The text of the communiqué is annexed to document A/55/729.

11. During a visit to the Falkland Islands (Malvinas) in February 2001, Baroness Patricia Scotland, Minister

for Overseas Territories of the United Kingdom, stated that "... the important thing is to make sure the security of the Falklands remains and that we work out a good working relation with ... Argentina so that the safety of the Falklands is maintained. The Falkland Islands are British; they will remain British as long as they wish to be. I have had the real advantage of seeing the Falkland Islands myself, the people here are indistinguishable from people who live on mainland United Kingdom".

12. On 1 March 2001, in a message to the inaugural meeting of the Legislative Assembly of Argentina, President Fernando de la Rúa said:

> "With respect to our rights over the Malvinas, South Georgia and South Sandwich Islands and the surrounding maritime areas, the National Government establishes its policy in accordance with the constitutional mandate. In this regard, throughout 2000 we received significant support for our position at the United Nations, the Organization of American States (OAS), the Ibero-American Summit, the Brasilia Summit, the Central American Summit, and in the Rio Group as well as at various high-level bilateral meetings.
>
> "While at the same time pursuing this sustained effort to regain the exercise of sovereignty over those territories, respecting the way of life of their inhabitants, we shall continue to work in order to reach further provisional understandings under the formula of sovereignty with the United Kingdom in the South Atlantic.
>
> "Within this framework, the recent agreement making it possible for private civilian aircraft to carry out flights and for individual vessels to navigate stands out. This understanding marks a further step along the path towards a rapprochement between the continental territory and the Malvinas Islands and further encourages human contact."

13. By letter dated 19 March 2001 (A/55/843) addressed to the Secretary-General, the Permanent Representative of the United Kingdom to the United Nations referred to the letter dated 3 January 2001 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General (A/55/729) and re-stated the position of his Government regarding sovereignty over the Falkland Islands (Malvinas).

III. Mine clearance

14. In 1994, the Government of Argentina offered to assume the task of removing the mines laid in the Falkland Islands (Malvinas) by the armed forces of Argentina during the conflict of 1982. An Action Agenda issued by Prime Minister Blair and President Menem on 28 October 1998 stated that both Governments would work together to evaluate the feasibility and cost of clearing the landmines that remained in the Falkland Islands (Malvinas). Both Governments reaffirmed their commitment to cooperating on mine clearance in the joint statement of 14 July 1999. Work on a memorandum of understanding setting out how the feasibility study would be carried out is under way. Within this context, an informal meeting of experts was held in Buenos Aires on 17 and 18 October 2000.

IV. Economic conditions

A. General

15. According to the administering Power, the pace of economic development has accelerated dramatically since 1982. In 1984, the Falkland Islands Development Corporation was formed to encourage the development of a private sector. This rapid growth resulted initially from the influx of British Government aid, but subsequently, from the development of fisheries. The size of the fisheries' revenues and their subsequent investment have enabled improvements to be made in the infrastructure and the promotion of tourism and other enterprises, which will help to diversify the economy. The basic challenge is to increase economic security through diversification, including further development of tourism and diversification of agricultural production.

16. In order to promote economic development, the territorial Government organized the Falkland Islands Forum on the theme of "Sustaining a secure future", held in London in July 2000. The Forum was attended by business and media representatives and investors from the Falkland Islands (Malvinas) and the United Kingdom. The meeting considered the future sustainable diversification of the Islands in the areas of mineral exploration, commercial fishing and agriculture, alongside the protection of the Islands' special environment. Among the initiatives discussed

were the branding and marketing of Falkland Islands (Malvinas) natural products (i.e. meat, wool, fish, calcified seaweed fertilizer and kelp) to world markets; fast-tracking the export of organic agriculture; the construction of a new abattoir built to European Union standards to open in July 2001; an open-door licensing policy for hydrocarbon exploration in unlicensed acreage; the development of onshore fisheries activity; the construction of a new deep-water port for use by tourist and commercial vessels; the responsible development of tourism and the development of a new Falklands (Malvinas) Internet portal with linked web sites to promote a welcoming image of the Islands and to facilitate e-commerce.

B. Public finance

17. The Territory's financial year runs from 1 July to 30 June. The most recent information available on total receipts and payments is contained in the 2000 working paper (A/AC.109/2000/11).

18. The territorial Government has continued to work for improved long-term planning and budget processes in order to strengthen financial management and control systems through computerization. The recent introduction of resource accounting was expected to enable management to identify the cost of the capital employed and to keep account of the value of the public investment in equipment and infrastructure throughout its useful life. The objective is to move from a money-led to a needs-led budget.

C. Agriculture, land tenure and livestock

19. The land is devoted for the most part to sheep ranching to produce wool. Until 1979, there were 36 farms in the Islands, almost all owned by absentee landlords and commercial interests, the largest of which was the Falkland Islands Company, which had been operating since 1851. In 1982, the Company began to sell off its land to private local ownership. The territorial Government has assisted in the process of subdivision of farms by making grants and loans available to individual farmers. There are some 90 farms which average 33,216 acres in size. In 1991, the territorial Government purchased four farms owned by the Falkland Islands Company, which constitute 25 per cent of the total farmland of the Islands. In order to manage these farms, the territorial Government established a body, the Falklands Landholdings Limited.

20. Faced with the continuing low price of wool, the Department of Agriculture is endeavouring to encourage agricultural diversification, while programmes related to wool production and marketing continue to be a major focus, among them the Agricultural Subsistence and Incentive Scheme, designed to provide financial support and to assist in the improvement of existing farming operations or the development of new farm-based enterprises and the Pasture Improvement Programme. Wool preparation is ongoing, as are the promotion of the chemical-free or "organic" status of Falkland Islands (Malvinas) wool and investigations into reducing the costs associated with the sale of Falkland Islands (Malvinas) wool. The Department of Agriculture carries out a programme of scientific research with a view to introducing improved farming methods to the Islands. Diversification projects have been undertaken in horticulture, cashmere goats, meat production and poultry farming.

D. Fisheries

21. Squid, including *Loligo* and *Illex*, are the mainstay of the territorial fisheries and economy. In addition to the two squid species, there are a number of finfish, which include blue whiting, hake and hoki. The Fisheries Department is responsible for administering the fishery. The management system reflects the volatile nature of the main squid species, which only live for one year. The standing stock of *Illex* squid, a species of migratory nature is monitored according to procedures agreed upon by the South Atlantic Fisheries Commission and further procedures, as appropriate, that are adopted to ensure conservation of the stock. In addition to its vulnerability to natural phenomena and human depredation, the fishery is also vulnerable to world economic conditions, as was the case in 1999 when income from fisheries in the Falkland Islands (Malvinas) decreased owing to the financial crisis in Asia.

22. On 15 and 16 June 2000, the South Atlantic Fisheries Commission held its seventeenth meeting, in London. The Argentine delegation was led by the Head of the Legal Department of the Ministry for Foreign Affairs, International Trade and Worship, Horacio Basabe. The British delegation was led by the Head of the Overseas Territories Department of the Foreign and

Commonwealth Office, John White. The following joint press statement was issued at the end of the meeting:

"(...) The meeting took place in a friendly atmosphere.

"The British and Argentine delegations agreed that there applied to the meeting and its consequences the formula on sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas contained in paragraph 2 of the joint declaration issued in Madrid on 19 October 1989.

"The South Atlantic Fisheries Commission welcomed the report of the Scientific Subcommittee on its fifteenth meeting, which was held in London on 13 and 14 June 2000. The Commission was pleased to acknowledge the value of the continuing cooperation between the Instituto Nacional de Investigación y Desarrollo Pesquero (INIDEP) and the Imperial College, highlighting particularly the continuing need for scientific work to improve our understanding of the dynamics of the *Illex* squid and southern blue whiting fishery and the increasingly important hoki stock. Further investigations are needed to improve the methodology for estimating the size and distribution of the stocks of significant species and their age composition. The Commission agreed to recommend the Subcommittee's proposals to both Governments.

"Both delegations reaffirmed the importance they attach to ensuring the stability of fish stocks. They reiterated the commitment of both Governments to the conservation of fish and squid stocks in the south-west Atlantic. They recommend to both Governments that continuing scientific research should continue to be done in order to improve our understanding of the most significant offshore species in the area.

"Both delegations reaffirmed their support for the Early Warning System. They were pleased by the success of the system while recognizing that further scientific work was needed to improve it. The exchange of real-time data on fishing operations remained central to the operation of the system. The Commission agreed to recommend to both Governments that every effort be made to maintain the level of 40,000 metric tons of *Illex* spawning stock biomass at the end of the fishing season in order to ensure stock sustainability.

"The Commission noted the concerns raised in the Subcommittee about the level of uncertainty associated with the estimation of recruitment and biomass of *Illex*. It was agreed to recommend to both Governments that a workshop on the methodologies for assessing the dynamics of *Illex* should take place to refine the application of the Early Warning System before the next fishing season.

"Both delegations exchanged views on conservation and other related measures affecting the fisheries of the south-west Atlantic. They recognize the need for further exchanges of information on these matters before and during the fishing season. They discussed ways of ensuring the relative stability of fisheries, recalling their economic significance.

"The Commission reiterated that the timely establishment of a multilateral arrangement would provide the necessary long-term mechanism to ensure the sustainability of fish stocks in the high seas of the south-west Atlantic.

"The Commission noted the concerns expressed by the Subcommittee about current catch levels on the southern blue whiting stock. Scientific advice was accepted that if the stock was to be sustained current catches should be substantially reduced from those of 1999. The Commission agreed to recommend to both Governments that they should explore ways to ensure that this conservation standard is met in order to achieve stability. A prudent policy was needed to conserve the fishery. Both delegations agreed that they should continue to recommend the maintenance of the precautionary approach for all relevant species.

"The Commission noted the progress made in developing the assessment of the status of the southern blue whiting stock further. It recommended that a further workshop should take place in conjunction with the next meeting of the Subcommittee in order to extend work on the status of the southern blue whiting stock.

"It was also agreed that in the light of the advice from the Scientific Subcommittee on the growing importance of hoki to the fishery in the south-west Atlantic the workshop should review the current status of the stock of hoki.

"Both delegations expressed their satisfaction at the practical measures being applied by their Governments to prevent poaching, given that it undermines the maintenance and conservation of fish stocks in the south-west Atlantic. They agreed to enhance efforts aimed at achieving both of these objectives in a coordinated way.

"The Argentine delegation reiterated the concern of the Argentine Government about the situation created by the British decisions with respect to the area described in the annex to the joint statement of 28 November 1990 and the area to the west of it. It expressed the hope of the Argentine Government that the matter be resolved. The British delegation reiterated its position.

"The two parties will maintain contact through diplomatic channels with a view to agreeing on the place and date of the next meeting of the Commission."

23. Subsequently, on 30 November 2000, the South Atlantic Fisheries Commission held its eighteenth meeting, in Buenos Aires. The Argentine delegation was led by the Head of the Malvinas and South Atlantic Department of the Ministry for Foreign Affairs, International Trade and Worship, Silvia Merega. The British delegation was led by the Head of the Overseas Territories Department of the Foreign and Commonwealth Office, John White. The following joint press statement was issued at the conclusion of the meeting:

"(...) The meeting took place in a friendly atmosphere.

"The British and Argentine delegations agreed that there applied to this meeting and its consequences the formula on sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas contained in paragraph 2 of the joint declaration issued in Madrid, on 19 October 1989.

"The South Atlantic Fisheries Commission welcomed the report of the Scientific Subcommittee on its 16th meeting, which was held in Mar del Plata, Argentina, on 27 and 28 November 2000. The Commission welcomed the continuing cooperation between INIDEP and the Imperial College, which contributed to the Commission's understanding of the scientific aspects of the fisheries of significant species. It was pleased that both institutions had agreed to continue with the implementation of joint projects. The Commission agreed to recommend the Subcommittee's proposals to both Governments.

"Both delegations reaffirmed the importance they attach to ensuring the stability of fish stocks and reiterated the commitment of both Governments to the conservation of fish and squid stocks of the south-west Atlantic. They recommended to both Governments the continuation of further scientific research in order to achieve a greater understanding of the most significant offshore species in the area.

"Both delegations reaffirmed their support for the Early Warning System, and acknowledged the need to carry out additional scientific work in order to improve it. The exchange of real-time data on fishing operations remained central to the operation of the system. The Commission agreed to recommend to both Governments that every effort be made to maintain a level of 40,000 metric tons of *Illex* spawning stock biomass at the end of the fishing season in order to ensure stock sustainability. Both delegations endorsed the extension of the exchange of information proposed by the Scientific Subcommittee for the next season.

"The Commission noted the concerns raised in the Subcommittee about the level of uncertainty associated with the estimation of recruitment of the short-fin squid, *Illex*, and agreed on the modifications proposed for the pre-recruit survey. Furthermore, the importance of the continuity of scientific work on the methodologies for the assessment of the dynamics of the *Illex* stock was underlined.

"Both delegations exchanged views on conservation measures affecting the fisheries of

the south-west Atlantic. They recognized the need for further exchanges of information on these matters before and during the fishing season. They discussed ways of ensuring the relative stability of fisheries, recalling their economic significance.

"Both delegations concurred that the timely establishment of a multilateral arrangement would provide the necessary long-term mechanism to ensure the sustainability of fish stocks in the high seas of the south-west Atlantic.

"Both delegations agreed to recommend to their Governments that a precautionary approach should be adopted to achieve the conservation of *Illex* stocks. In that respect, if scientific assessments indicate that the status of the *Illex* stock during the 2001 season is jeopardized, it is recommended to both Governments to then adopt appropriate conservation measures.

"The Commission noted the concerns expressed by the Scientific Subcommittee on the declining levels of biomass of southern blue whiting, and that current catch levels are likely to be unsustainable under prevailing conditions of recruitment. Both delegations agreed to recommend to their Governments that the serious position of the southern blue whiting stock be addressed by a precautionary approach. This should aim to reverse the above trends through appropriate catch levels.

"The Commission endorsed the agreement reached in the Scientific Subcommittee to continue research on the current status of hoki.

"Both delegations expressed their satisfaction at the practical measures being applied by their Governments to prevent poaching, given that it undermines the maintenance and conservation of fish stocks in the south-west Atlantic. They agreed to enhance efforts aimed at achieving both of these objectives in a coordinated way.

"The Argentine delegation reiterated the concern of the Argentine Government about the situation created by the British decisions with respect to the area described in the annex to the joint statement of 28 November 1990 and to the area west of it. It expressed the hope of the Argentine Government that the matter be resolved. The British delegation reiterated its position.

"The two parties will maintain contacts through diplomatic channels with a view to agreeing on the place and dates of future meetings of the Commission."

E. Tourism

24. The most recent information on visitors to the Islands is contained in the 2000 working paper prepared by the Secretariat (A/AC.109/2000/11). The Falkland Islands Tourist Board, a department of the Falkland Islands Development Corporation, has established relationships with United Kingdom and other European tour operators to include the Falkland Islands (Malvinas) in tour programmes. The tourism industry offers specialist holidays to those interested in wildlife and sea trout fishing. The Islands' main tourist lodges are found at Port Howard, San Carlos, Sea Lion Island and Pebble Island. There are two hotels in Stanley.

F. Oil

25. On 27 July 2000, the South West Atlantic Hydrocarbons Commission held its eighth meeting, in London. The Argentine delegation was led by Horacio Adolfo Basabe, Legal Adviser at the Ministry for Foreign Affairs, International Trade and Worship, and the British delegation was headed by Richard Wilkinson, Director, Americas, at the Foreign and Commonwealth Office. At the conclusion of the meeting, the following joint press statement was issued:

"(...) A meeting of the Subcommittee for the Special Cooperation Area took place on 25 and 26 July 2000.

"The British and Argentine delegations agreed that there applied to the meeting and its consequences the formula on sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas set out in paragraph 1 of the joint declaration of 27 September 1995.

"The Joint Commission reviewed the work of its Subcommittee, which is considering the many questions related to the launch of a licensing round in the Special Cooperation Area. The Joint Commission agreed that further work was necessary on the proposed marking scheme for bids, health and safety issues, harmonization of licence terms and conditions, future environmental work and taxation.

"The Joint Commission discussed issues related to the protection of the marine environment and the accomplishment of joint scientific research projects in the south-west Atlantic.

"The Joint Commission discussed cooperation on the promotion of the exploration for and exploitation of hydrocarbons in maritime areas of the south-west Atlantic subject to a controversy on sovereignty and jurisdiction, and the existing divergent interpretations in relation to some aspects of the 1995 joint declaration. Both delegations agreed to reflect further on this issue and on how future cooperation might best be carried forward. They agreed to resume consideration of these matters at a future meeting."

G. Transport, communications and other basic facilities

26. The road network in the Falkland Islands (Malvinas) consists of over 30 miles of surfaced roads and over 160 miles of unsurfaced roads. Travel within the Territory is accomplished by a variety of means, mostly by aircraft and four-wheel-drive vehicles. Motorbikes and horses are also used in the countryside.

27. Air transport in the Territory is provided by the territorial Government's air service on an on-call basis, using four nine-seater aircraft. There are some 40 grass and beach airstrips serving almost every settlement in the Islands.

28. Freight is transported by a coastal ship, operated by Byron Marine Ltd. The ship carries fuel and other supplies to farms and outlying islands, collecting wool for the return trip, for subsequent onward shipment to the United Kingdom by charter vessel.

29. In February 2001, by an exchange of letters, the Governments of Argentina and the United Kingdom agreed that the formula on sovereignty in paragraph 2 of the joint statement issued in Madrid on 19 October 1989 applied to flights by private civil aircraft and to navigation by private vessels, including their arrival, stay and departure, from mainland Argentina to the Falkland Islands (Malvinas) and from the Islands to mainland Argentina. Since February, several flights have taken place.

H. Banking and public works

30. Information on banking and public works is contained in paragraphs 33 to 36 of the 2000 working paper prepared by the Secretariat (A/AC.109/2000/11).

V. Social conditions

A. General

31. According to the administering Power, the Territory observes the principles contained in the Universal Declaration of Human Rights. The provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms has been extended to the Falkland Islands (Malvinas) by the administering Power. Further, the United Kingdom has extended the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights to the Territory and observes the regular reporting procedures under these instruments. The common law of the United Kingdom applies in the Falkland Islands (Malvinas) except insofar as it is inconsistent with any enactment of the law applying to the Falkland Islands (Malvinas).

32. There is no discrimination on the basis of sex in the implementation of articles 2 and 3 of the International Covenant on Civil and Political Rights. The Convention on the Elimination of All Forms of Discrimination against Women has been applied by the United Kingdom in the Falkland Islands (Malvinas) with the agreement of the territorial Government.

B. Public health, social security and welfare, housing and education

33. Information on public health, social security and welfare, housing and education is contained in paragraphs 39 to 48 of the 2000 working paper prepared by the Secretariat (A/AC.109/2000/11). During the period under review, work has continued towards the planned replacement, by civilians, of military staff providing health services at the King Edward VII Memorial Hospital.

C. Other developments

34. Since the issuance of the 2000 working paper, six groups, each composed of 20 relatives of Argentines who died in the 1982 conflict, accompanied by a priest, travelled to the Falkland Islands (Malvinas) in October, November and December 2000 and in January, February and March 2001 in order to visit the Argentine cemetery in the Islands.

35. During the period under review, there were private contacts between the inhabitants of the Territory and continental Argentina. An Islander played on a Buenos Aires football team; art exhibits of the work of a painter from the Islands took place in Bahía Blanca and Buenos Aires; a group of popular music from Buenos Aires performed in the Islands. Patagonian entrepreneurs in the wool industry also made a visit to the Islands as tourists.

VI. Participation in international organizations and arrangements

36. The Government of the Falkland Islands (Malvinas) participates in activities of the Commonwealth and is a member of the United Kingdom Overseas Territories Association. Representatives of this Government have participated, as members of the United Kingdom delegation, in discussions on matters affecting their interests, such as those leading to the 14 July 1999 joint statement.

VII. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

37. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 8th meeting, on 11 July 2000. At its 5th meeting on 5 July 2000, the Special Committee granted requests for hearing by the Honourable Sharon Halford and the Honourable Richard Cockwell of the Legislative Council of the Falkland Islands (Malvinas), as well as by Guillermo Clifton, Alejandro Betts and Alejandro Vernet. At its 8th meeting, the Special Committee acceded to the requests of Argentina, Brazil (on behalf of the States members of the Southern Cone Common Market (MERCOSUR) (Argentina, Brazil, Paraguay and Uruguay) plus Bolivia and Chile), Paraguay and Uruguay to participate in the consideration of the item.

38. At the Committee's 8th meeting, the representative of Chile introduced, also on behalf of Bolivia, Cuba and Venezuela, a draft resolution on the item (A/AC.109/2000/L.8). The Committee subsequently approved the draft resolution without a vote at the same meeting, following the debate on the question.

39. At the same meeting, the Minister for Foreign Affairs, International Trade and Worship of Argentina, Adalberto Rodriguez Giavarini, made the following statement:

> "We hope that the work of the Special Committee helps to resolve an issue of fundamental importance for the Argentine Republic: the dispute regarding sovereignty over the Malvinas, South Georgia and South Sandwich Islands and the surrounding maritime areas.
>
> "I wish to confirm, before the members of the United Nations here present, the lasting and irrevocable commitment of the Argentine Government to the peaceful recovery of those archipelagos and maritime areas since they are part of the Argentine national territory and my

country will never renounce the claim for their restitution.

"Recovering the full exercise of sovereignty, respecting the way of life of its inhabitants and in conformity with international law, is a constitutional precept, the fulfilment of which is set forth in the Constitution of the Argentine Nation. It transcends Governments, persons and circumstances, forming an objective of the entire Argentine people and the only possible policy of the State.

"Profoundly committed to this line of thought, the Argentine Government confirms its complete readiness to resume bilateral negotiations with the United Kingdom, as is indicated in successive resolutions of this Special Committee, the United Nations General Assembly and the General Assembly of the Organization of American States."

40. At the same meeting, the representative of Brazil, on behalf of the States members of MERCOSUR and of Bolivia and Chile, reiterated the provisions of the Declaration on the Malvinas, adopted at the tenth meeting of Presidents of the States members of MERCOSUR and of Bolivia and Chile, held at Potrero de los Funes, Argentina, on 25 June 1996, at which the Presidents reaffirmed their support for the legitimate right of Argentina in the sovereignty dispute on the question of the Falkland Islands (Malvinas) urging that the controversy should be resolved as soon as possible in accordance with resolutions of the United Nations and the Organization of American States. He also drew attention to the Declaration on the Malvinas adopted at the sixteenth meeting of the Presidents of MERCOSUR and Bolivia and Chile, held in Asuncion, Paraguay, on 5 June 1999, by which they noted with satisfaction the positive dialogue between Argentina and the United Kingdom with regard to the situation in the South Atlantic, they reiterated their unwavering commitment to the policy of securing communications and free transit of persons with the Falkland Islands (Malvinas), without discrimination and in a fluid and friendly manner.

41. Also speaking during the Special Committee's debate on the item, the representative of Uruguay recalled the 1986 statement of his country's President at the General Assembly to the effect that Argentina and the United Kingdom should sit down at the negotiating table, in the name of peace and mutual understanding among nations, and undertake a frank and open dialogue, placing all the issues and questions in dispute on the table and resolving all problems that hinder full normalization of relations. The representative of Paraguay stated that his Government had traditionally supported Argentina. The high level of bilateral Argentine-British relations constituted a solid base for the resumption of negotiations that take into account the interests of the inhabitants of the Islands with a view to achieving a just and lasting solution. The representative of Tunisia stated that the international community would like to see the resumption of negotiations between Argentina and the United Kingdom so that they could find a just and lasting solution to their dispute as soon as possible. His country welcomed the present climate of dialogue and cooperation between the two States. The representative of Iraq said that the Falkland Islands (Malvinas) belonged to Argentina and had been occupied by the United Kingdom, which continued to occupy them, invoking the right to self-determination. In this case, it was not appropriate because the Islanders were several hundred British citizens who had been transplanted and encouraged to remain on the Islands. The representative of Indonesia stated that the question of the Falkland Islands (Malvinas) was a special situation and required the enhancement of understanding and reconciliation. Bilateral relations between Argentina and the United Kingdom had reached an important stage. The two countries should follow dialogue to pave the way towards a just, peaceful and lasting settlement of their dispute. The representative of Venezuela stated that his country, as a co-sponsor of the draft resolution, supported Argentina's legitimate rights of sovereignty over the Falkland Islands (Malvinas). The process of dialogue and cooperation, which both Argentina and the United Kingdom had strengthened in the last few years, was the only way to reach a just and lasting settlement to the dispute. The representative of China recalled that the General Assembly resolution of December 1965 had invited the two Governments to seek a peaceful resolution to their dispute, as had the Special Committee. It was a widely accepted principle that a territorial dispute should be resolved through peaceful negotiations. China appealed to Argentina and the United Kingdom to continue their dialogue and supported the draft resolution in that regard. The representative of the Syrian Arab Republic stated that his country favoured a peaceful and lasting

solution to the dispute, achieved through dialogue and cooperation between the Governments of Argentina and the United Kingdom. The representative of Cuba stated that his country's position was well known and had been expressed clearly in the Special Committee and elsewhere. Faithful to the principle of brotherhood and others guiding Cuba's foreign policy, it endorsed Cuba's full commitment to and support for Argentina's sovereignty. A peaceful and lasting solution to the dispute could be achieved through dialogue and cooperation. The representative of Côte d'Ivoire expressed the extreme importance his country attached to the resolution of the dispute, which had remained unsolved for too long. Conditions could not be better for a peaceful resolution. The representative of Ethiopia stated that the question of the Falkland Islands (Malvinas) constituted a colonial situation involving a sovereignty dispute. He supported the draft resolution. The representative of the United Republic of Tanzania stated that the consistent position of his delegation was reflected in the current draft resolution and represented the way to bring this particular colonial situation to an end. He called for a peaceful, negotiated settlement to the issue of sovereignty between Argentina and the United Kingdom, though he expressed concern and disappointment that the situation remained unchanged. The representative of Bolivia called for approval of the draft resolution. He expressed concern, however, that previous calls for progress had not been heeded.

42. In statements after the adoption of the resolution, the representative of Grenada urged the parties to press on for the eventual successful resolution of the dispute. The right of self-determination was reserved for the inhabitants of the Territory, who were the only and final arbiters of their future destiny. The representative of Antigua and Barbuda stated that the current discussion had dealt with sovereignty and not decolonization, which was the real subject matter of the Committee. The job of the Committee was not to determine who should govern a Territory, but to ensure that the options chosen by the inhabitants were followed. It was encouraging that Argentina and the United Kingdom, in recent discussions, had made progress on matters related to the welfare of the people of the Islands. The representative of Sierra Leone stated that it was important for the resolution to express interest in the self-determination of the population of the Islands and added that there was no substitute for self-determination in matters of decolonization.

B. Position of the Government of Argentina

43. During the Millennium Summit of the United Nations, at a meeting held on 8 September 2000, the President of Argentina, Fernando de la Rúa, stated the following:

> "I should like to conclude by pointing out that my country's dispute with the United Kingdom regarding the Malvinas, South Georgia and South Sandwich Islands and the surrounding maritime areas is on the agenda of this Organization, which, through repeated resolutions, has requested the Governments of my country and the United Kingdom to resume negotiations in order to find a just and lasting solution to the sovereignty dispute, thus putting an end to a colonial situation imposed by force in 1833."

44. The position of Mr. de la Rúa was reiterated in identical terms by the Secretary of State for Foreign Affairs of Argentina, Enrique Candioti, on 21 September 2000, in his statement during the general debate at the fifty-fifth session of the General Assembly, while adding the following:

> "... Argentina confirms once again its complete readiness to resume bilateral negotiations with the United Kingdom in order to resolve this issue, and its support for the mission of good offices which the General Assembly has entrusted to the Secretary-General in order to assist the parties in achieving this objective."

45. At the same meeting, in exercise of the right of reply to the United Kingdom, the representative of Argentina stated that, "the Argentine Republic, having listened to the statement made in reply by the representative of the United Kingdom of Great Britain and Northern Ireland, wishes to reaffirm the ideas put forth in the statement made in the general debate this afternoon by the Secretary of State for Foreign Affairs, Mr. Enrique Candioti".

C. Position of the administering Power

46. On 21 September 2000, at the 27th meeting of the General Assembly, replying to the statement made by the Secretary of State of Argentina, the representative of the United Kingdom stated the following:

"The British Government does not accept the Secretary of State (of Argentina)'s remarks about sovereignty. We have no doubt about Britain's sovereignty over the Falkland Islands and the other British dependencies in the South Atlantic. Moreover, we have a duty to respect the right to self-determination of the people of the Falkland Islands, who have made clear their wish to remain British. The elected representatives of the Islanders expressed their views clearly when they visited the United Nations for the debate in the Committee of 24 on 11 July this year. They asked the Committee to recognize that they, like any other democratic people, should be allowed to exercise the right of self-determination. As the democratic voice of the Falkland Islands people, they reiterated their view that they did not want to be part of Argentina.

"Despite our differences with Argentina on the subject of sovereignty, we continue to strengthen our bilateral relations — including this year through meetings between Prime Minister Blair and President de la Rúa and between our Foreign Ministers — and to build on the agreement signed last year on practical arrangements on matters of common interest in the South Atlantic. We are confident that our relations will continue to flourish in that spirit of cooperation and mutual interest."

47. The representative of the United Kingdom also made statements in right of reply at the 3rd and 7th meetings of the Special Political and Decolonization Committee (Fourth Committee), reiterating that the United Kingdom's position on the sovereignty of the Falkland Islands (Malvinas) was well known and had been expressed most recently by the Deputy Permanent Representative of the United Kingdom to the United Nations in his statement to the General Assembly on 21 September 2000.

D. Contribution by other Member States

48. During the general debate on decolonization items in the Fourth Committee on 5 September 2000, the representative of Colombia, on behalf of the member States of the Rio Group, stated that the Governments of Argentina and the United Kingdom should resume their negotiations aimed at finding at the earliest possible date a peaceful, just and lasting solution to the colonial dispute over sovereignty of the Malvinas, South Georgia and South Sandwich Islands, in accordance with the relevant resolutions of the General Assembly and the Special Committee on Decolonization (see A/C.4/55/SR.3).

49. At the same meeting, the representative of Brazil, speaking on behalf of the MERCOSUR countries (Argentina, Brazil, Paraguay and Uruguay) plus Bolivia and Chile, reiterated the provisions of the "Declaration on the Malvinas Islands" adopted at the tenth meeting of the Presidents of the States Parties of MERCOSUR and of Bolivia and Chile, in 1996. The Declaration reaffirmed their support for the legitimate rights of Argentina in the sovereignty dispute on the question of the Falkland Islands (Malvinas) and their concern that the sovereignty dispute between Argentina and the United Kingdom about the aforementioned territories be resolved promptly in accordance with the resolutions of the United Nations and the Organization of American States. The representative of Brazil also recalled the meeting of the Presidents of the States Parties of MERCOSUR and of Bolivia and Chile, held in Asunción of Paraguay, on 5 June 1999, at which they welcomed the positive dialogue between Argentina and the United Kingdom reflected in the most recent contacts between the two countries, and reiterated their commitment to the policy of ensuring communications and transit of persons without discrimination and in a fluid and friendly manner. The representative of Brazil also pointed out that the Committee of South American Presidents, at a meeting in Brasilia on 31 August and 1 September 2000, had declared that in the Falkland Islands (Malvinas) colonialism still existed and that such colonial situations were incompatible with the ideals of peace, security and cooperation in the subcontinent. The Presidents had agreed on the need for the two parties to resume negotiations with a view to the speedy achievement of a peaceful and lasting solution to the sovereignty dispute on the basis of the relevant resolutions of the United Nations and the Organization of American States.

50. Also at the third meeting of the Fourth Committee, the representative of Cuba reiterated his country's support for the legitimate rights of Argentina in the dispute over sovereignty in the Falkland Islands (Malvinas) and considered that a lasting, peaceful and just resolution of that problem could be achieved solely through dialogue and cooperation between the parties.

51. At the 7th meeting on 29 September 2000, the representative of Chile stated that his delegation fully supported the statement by the representative of Brazil on behalf of the States members of MERCOSUR. At the same meeting, the representative of Venezuela stated that his country shared the aspirations of Argentina concerning sovereignty over the Falkland Islands (Malvinas) and called on the Governments of Argentina and the United Kingdom to undertake negotiations with a view to finding a peaceful and lasting solution to the dispute (see A/C.4/55/SR.7).

E. Action by the General Assembly

52. At its 68th plenary meeting on 20 November 2000, the General Assembly decided to defer consideration of the item entitled "Question of the Falkland Islands (Malvinas) and to include it in the provisional agenda of its fifty-sixth session (decision 55/411).

F. Consideration by other intergovernmental organizations and international forums

53. On 6 June 2000, the General Assembly of the OAS adopted a declaration on the question of the Falkland Islands (Malvinas) by which it welcomed the reaffirmation of the will of the Government of Argentina to continue exploring all possible avenues for peaceful settlement of the controversy and its constructive approach towards the inhabitants of the Falkland Islands (Malvinas); reaffirmed the need for the Governments of Argentina and the United Kingdom to begin, as soon as possible, negotiations on the sovereignty dispute, in order to find a peaceful solution to this protracted controversy; and decided to continue to examine the question of the Falkland Islands (Malvinas) at its subsequent sessions until a definitive settlement is reached thereon.

54. The position of the United Kingdom with regard to the consideration of the question of the Falkland Islands (Malvinas) at OAS was stated in a letter dated 13 November 1995 from the Permanent Observer Mission of the United Kingdom to OAS addressed to the Chairman of the Permanent Council of OAS:

> "The position of the British Government on the question of the Falkland Islands is well known and remains unchanged. It was, for example, set out most recently by the British delegation in the United Kingdom right of reply to the statement to the United Nations General Assembly by the Argentine Minister for Foreign Affairs on 27 September. I am sure you will understand why the United Kingdom cannot accept the various resolutions and declarations adopted by the General Assembly of the Organization and referred to the preamble and operative paragraph 1 of resolution 655 (104/95). I am sure that this matter will not inhibit the fruitful cooperation on a wide range of issues which we all desire."

55. The meeting of the Presidents of South America(n States), held in Brasilia on 31 August and 1 September 2000, stated that, in the South Atlantic, there still remained a colonial situation in the Falkland Islands (Malvinas), and further stated the following:

> "Convinced that the continuation of colonial situations was incompatible with the ideals of peace, security and cooperation in the subcontinent, the meeting of the Presidents agreed on the need for the two Parties to resume negotiations with a view to finding, as soon as possible, a peaceful and lasting solution to the dispute over sovereignty, in accordance with the relevant resolutions issued by the United Nations and the Organization of American States."

56. At the tenth Ibero-American Summit, held in Panama City on 16 November 2000, the Heads of State and Government adopted the following declaration on the Falkland Islands (Malvinas):

> "The Heads of State and Government of the Ibero-American countries, meeting in Panama City, on the occasion of the Tenth Ibero-American summit, reaffirm the need for the Government of the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland to resume, as soon as possible, the negotiations aimed at finding an early solution to the sovereignty dispute relating to the Question of the Malvinas Islands, in accordance with the provisions, objectives and resolutions of the United Nations and the Organization of American States, including the principle of territorial integrity."

Notes

[1] The information contained in the present paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 *e* of the Charter of the United Nations on 3 May 2001, as well as from official documents of the Government of Argentina.